REMARKS

I. Status of the Claims

Claims 1-134, 136-145, 153-188 are canceled and claims 135 and 146-152 are pending. Claims 135 and 146-152 are herein amended. As discussed with the Examiner, Applicants propose to amend independent claim 135 to limit the at least one additional compound to pregabalin, a pharmaceutically acceptable salt of pregabalin, or a combination thereof.

Applicants also propose to amend claims 135 and 146-152 to explicitly recite that the claimed method contemplates administering milnacipran, a pharmaceutically acceptable salt of milnacipran, or a combination of milnacipran and a pharmaceutically acceptable salt of milnacipran and to recite the proviso that the claim method excludes administering phenylalanine, tyrosine, or tryptophan.

Applicants submit that no new matter is added by way of these amendments.

II. Examiner Interview

On March 9, 2010, Inventor Srinivas Rao, and Applicants' representative Anthony Tridico conducted an in-person interview with Examiners Hughes and Richter to discuss the outstanding office action for this case. Also discussed were the related cases, U.S. Patent Application Nos. 12/035,820 and 12/644,510. During that interview, Drs. Rao and Tridico spoke with Examiner Hughes and Supervisory Patent Examiner

Richter regarding the cited reference U.S. Patent No. 6,441,038 ("Loder"), secondary evidence of patentability, and certain claim amendments.[1]

Regarding Loder, Dr. Rao emphasized to Examiners Hughes and Richter that the reference requires the combination of norepinephrine reuptake inhibitor and a neurotransmitter precursor. *Presentation* at slides 3-4. Moreover, Dr. Rao clarified the record explaining that Loder was referring to improvements in motor function in stroke/brain injury models, not fibromyalgia or pain, when it stated that noradrenergic compounds could have relatively modest effects in patients. *Id.* at slide 6.

Dr. Rao also presented experimental evidence showing the unexpected results obtained by treating patients suffering from fibromyalgia with the combination of milnacipran and pregabalin. *Id.* at slide 12. In particular, Dr. Rao noted that the robust response seen in patients receiving milnacipran in combination with pregabalin was surprising and unexpected in light of the patient population of that clinical trial, because all patients had previously shown an inadequate response to pregabalin alone. *Id.*

Finally, Applicant agreed in the interview to amend the claims as presented herein. The Examiners agreed that, when the slide presentation presented at the interview was reduced to a declaration by Dr. Rao, and the enclosed claim amendments were made, the application would be considered to be in allowable form.

III. Arguments

Claims 135 and 146-152 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,441,038 to Loder ("Loder") in view of U.S. Patent No. 6,500,853

[1] A copy of a PowerPoint presentation (hereinafter referred to as the "presentation") provided at the interview is attached for the Examiner's convenience.

to Seehra ("Seehra"). Applicant respectfully disagrees, and traverses the rejection for at least the following reasons.

The Secondary Evidence Establishes the Patentability of the Claims

The Office has not established that the skilled artisan would have had any reason to combine Loder and Seehra in the suggested manner. However, as discussed at the interview, and in an effort to expedite prosecution, Applicant attaches a declaration of Dr. Srinivas Rao providing objective evidence that the claimed method unexpectedly leads to substantial improvement in patients suffering from fibromyalgia. This evidence establishes that the claims are nonobvious over Loder in view of Seehra. M.P.E.P §§ 716.01(a) and 716.02(a).

Specifically, a recent phase III clinical trial showed that treatment with milnacipran in combination with pregabalin can lead to substantial improvement in patients suffering from fibromyalgia. *Rao Declaration* at paragraph 15. The combination resulted in a surprising and unexpected increase of the response rate over pregabalin alone. *Id.* These results are particularly surprising considering the patient population was, by definition, drug resistant. *Id.* Moreover, synergy between drugs of different pharmacological classes has never been demonstrated between any two agents in fibromyalgia. *Id.*

Thus, the results of the simultaneous administration of milnacipran and pregabalin in patients with fibromyalgia who had an inadequate response to pregabalin alone are unexpected and in view of the attached declaration Applicants respectfully request that these rejections be withdrawn.

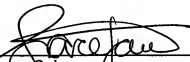
Applicants respectfully submit that the present application is in condition for allowance and request that the Examiner issue a timely Notice of Allowance.

Please grant any extension of time required to enter this response and charge any required fees to deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: April 15, 2010

By: 

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